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AN ACT
RELATING TO LICENSING LAWS; REVISING REAL ESTATE LICENSING
FEES; REQUIRING CONSENT TO BE SUED IN NEW MEXICO AS A
QUALIFICATION FOR OBTAINING A REAL ESTATE LICENSE; REMOVING
THE STATUTORY LIMIT ON LATE FEES FOR LICENSE RENEWAL;
PROVIDING THAT A CERTAIN BALANCE IN THE REAL ESTATE RECOVERY
FUND BE TRANSFERRED TO THE REAL ESTATE COMMISSION FUND;
AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-29-4 NMSA 1978 (being Laws 1959,
Chapter 226, Section 3, as amended) is amended to read:

"61-29-4. CREATION OF COMMISSION-- POWERS AND DUTIES. --
There is created the "New Mexico real estate commission".
The commission shall be appointed by the governor and shall
consist of five members who shall have been residents of the
state for three consecutive years immediately prior to their
appointment, four of whom shall have been real estate brokers
licensed in New Mexico and one of whom shall be a member of
the public who has never been licensed as a real estate
broker or salesperson; provided not more than one member
shall be from any one county within the state. The members
of the commission shall serve for a period of five years or
until their successors are appointed and qualified. Members
to fill vacancies shall be appointed for any unexpired term.

1 The governor may remove any member for cause. The commission
2 shall possess all the powers and perform all the duties
3 prescribed by Chapter 61, Article 29 NMSA 1978 and as
4 otherwise provided by law, and it is expressly vested with
5 power and authority to make and enforce any rules and
6 regulations to carry out the provisions of that article.
7 Prior to any final action on any proposed changes or
8 amendments to the rules and regulations of the commission,
9 the commission may publish notice of the proposed action in
10 its official publication, distribute the publication to each
11 active licensee and give the time and place for a public
12 hearing on the proposed changes. The hearing shall be held
13 at least thirty days prior to any proposed final action. Any
14 changes or amendments to the rules shall be filed in
15 accordance with the procedures of the State Rules Act and
16 shall become effective thirty days after notification to all
17 active licensees of the filing of the changes or
18 amendments. "

19 Section 2. Section 61-29-7 NMSA 1978 (being Laws 1959,
20 Chapter 226, Section 6, as amended) is amended to read:

21 "61-29-7. REIMBURSEMENT AND EXPENSES. -- Each member of
22 the commission shall receive per diem and mileage as provided
23 in the Per Diem and Mileage Act and shall receive no other
24 compensation, perquisite or allowance. "

25 Section 3. Section 61-29-8 NMSA 1978 (being Laws 1959,

1 Chapter 226, Section 7, as amended) is amended to read:

2 "61-29-8. LICENSE FEES--DISPOSITION.--

3 A. The following fees shall be established and
4 charged by the commission and paid into the real estate
5 commission fund:

6 (1) for each examination, a fee not to
7 exceed ninety-five dollars (\$95.00);

8 (2) for each broker's license issued, a fee
9 not to exceed two hundred seventy dollars (\$270) and for each
10 renewal thereof, a fee not to exceed two hundred seventy
11 dollars (\$270);

12 (3) for each real estate salesperson's
13 license issued, a fee not to exceed two hundred seventy
14 dollars (\$270) and for each renewal thereof, a fee not to
15 exceed two hundred seventy dollars (\$270);

16 (4) subject to the provisions of Paragraph
17 (10) of this subsection, for each change of place of business
18 or change of employer or contractual associate, a fee not to
19 exceed twenty dollars (\$20.00);

20 (5) for each duplicate license, where the
21 license is lost or destroyed and affidavit is made thereof, a
22 fee not to exceed twenty dollars (\$20.00);

23 (6) for each license history, a fee not to
24 exceed twenty-five dollars (\$25.00);

25 (7) for copying of documents by the

1 commission, a fee not to exceed one dollar (\$1.00) per copy;

2 (8) for each license law and rules and
3 regulations booklet, a fee not to exceed ten dollars (\$10.00)
4 per booklet;

5 (9) for each hard copy or electronic list of
6 licensed real estate brokers and salespersons, a fee not to
7 exceed twenty dollars (\$20.00);

8 (10) for each license reissued for a real
9 estate salesperson because of change of address of the
10 broker's office, death of the licensed broker when a
11 successor licensed broker is replacing the decedent and the
12 salesperson remains in the office or because of a change of
13 name of the office or the entity of the licensed broker, a
14 fee in an amount not to exceed twenty dollars (\$20.00) to be
15 paid by the licensed broker or successor broker as the case
16 may be; but if there are eleven or more affected salespersons
17 in the licensed broker's office, the total fee paid to effect
18 reissuance of all of those licenses shall not exceed two
19 hundred dollars (\$200);

20 (11) for each application to the commission
21 to become an approved sponsor of pre-licensing and continuing
22 education courses, a fee not to exceed five hundred dollars
23 (\$500) and for each renewal thereof a fee not to exceed five
24 hundred dollars (\$500);

25 (12) for each application to the commission

1 to become an approved instructor of pre-licensing and
2 continuing education courses, a fee not to exceed seventy
3 dollars (\$70.00) per course; and

4 (13) for each application to the commission
5 to renew certification as a commission-approved instructor, a
6 fee not to exceed one hundred dollars (\$100).

7 B. All fees set by the commission shall be set by
8 rule and only after all requirements have been met as
9 prescribed by Chapter 61, Article 29 NMSA 1978. Any changes
10 or amendments to the rules shall be filed in accordance with
11 the provisions of the State Rules Act.

12 C. The commission shall deposit all money received
13 by it from fees in accordance with the provisions of Chapter
14 61, Article 29 NMSA 1978 with the state treasurer, who shall
15 keep that money in a separate fund to be known as the "real
16 estate commission fund", and money so deposited in that fund
17 is appropriated for the purpose of carrying out the
18 provisions of Chapter 61, Article 29 NMSA 1978 or to maintain
19 the real estate recovery fund as required by the Real Estate
20 Recovery Fund Act and shall be paid out of the fund upon the
21 vouchers of the executive secretary of the commission or his
22 designee; provided that the total fees and charges collected
23 and paid into the state treasury and any money so deposited
24 shall be expended only for the purposes authorized by Chapter
25 61, Article 29 NMSA 1978.

1 D. The commission shall by rule provide for a
2 proportionate refund of the license issuance fee or the
3 license renewal fee if the license is issued or renewed for a
4 period of three years pursuant to Section 61-29-11 NMSA 1978
5 and is terminated with more than one year remaining. "

6 Section 4. Section 61-29-9 NMSA 1978 (being Laws 1959,
7 Chapter 226, Section 8, as amended) is amended to read:

8 "61-29-9. QUALIFICATIONS FOR LICENSE. --

9 A. Licenses shall be granted only to persons who
10 are deemed by the commission to be of good repute and
11 competent to transact the business of a real estate broker or
12 salesperson in a manner that safeguards the interests of the
13 public.

14 B. An applicant for a broker's license shall be a
15 legal resident of the United States and have reached the age
16 of majority. Each applicant for a broker's license shall
17 have passed the real estate examination approved by the
18 commission and shall:

19 (1) have performed actively as a real estate
20 salesperson for at least twenty-four months out of the
21 preceding thirty-six months immediately prior to filing
22 application and furnish the commission a certificate that he
23 has completed successfully a broker basics course approved by
24 the commission;

25 (2) furnish the commission a certificate

1 that he has completed successfully one hundred eighty
2 classroom hours of instruction in basic real estate courses
3 approved by the commission;

4 (3) furnish the commission a certificate
5 that he is a duly licensed real estate broker in good
6 standing in another state, providing he has completed
7 successfully ninety classroom hours of instruction in basic
8 real estate courses approved by the commission, thirty hours
9 of which shall have been a broker basics course; or

10 (4) furnish the commission satisfactory
11 proof of his equivalent experience in an activity closely
12 related to or associated with real estate and furnish the
13 commission a certificate that he has completed successfully
14 ninety classroom hours of instruction in basic real estate
15 courses approved by the commission, thirty hours of which
16 shall have been a broker basics course; and

17 (5) if not a resident of New Mexico, file
18 with the commission an irrevocable consent that lawsuits and
19 actions may be commenced against him in the proper court of
20 any county of this state in which a cause of action may arise
21 or in which the plaintiff may reside, by the service of any
22 process or pleadings authorized by the laws of this state on
23 the commission, the consent stipulating and agreeing that
24 such service of process or pleadings on the commission is as
25 valid and binding as if personal service had been made upon

1 the applicant in New Mexico. The instrument containing the
2 consent shall be acknowledged and, if executed on behalf of a
3 corporation or association, shall be accompanied by a
4 certified copy of the resolution of the proper officers or
5 managing board authorizing the executing officer to execute
6 the instrument. Service of process or pleadings shall be
7 served in duplicate upon the commission; one shall be filed
8 in the office of the commission and the other immediately
9 forwarded by registered mail to the main office of the
10 applicant against which the process or pleadings are
11 directed.

12 C. Each applicant for a real estate salesperson's
13 license shall be a legal resident of the United States, have
14 reached the age of majority, have passed the real estate
15 examination approved by the commission and furnish the
16 commission a certificate that he has completed successfully
17 sixty classroom hours of instruction in basic real estate
18 courses approved by the commission.

19 D. The commission shall require the information it
20 deems necessary from every applicant to determine his
21 honesty, trustworthiness and competency. Corporations,
22 partnerships or associations may hold a broker's license
23 issued in the name of the corporation, partnership or
24 association, provided at least one member of the partnership
25 or association or one officer or employee of a corporation

1 who actively engages in the real estate business first
2 secures a broker's license. The license shall be issued in
3 the name of the corporation, partnership or association,
4 naming the partner, associate, officer or employee as
5 qualifying broker for the corporation, partnership or
6 association. "

7 Section 5. Section 61-29-11 NMSA 1978 (being Laws 1959,
8 Chapter 226, Section 10, as amended) is amended to read:

9 "61-29-11. ISSUANCE, RENEWAL AND SURRENDER OF
10 LICENSES. --

11 A. The commission shall issue to each qualified
12 applicant a license in the form and size prescribed by the
13 commission.

14 B. The license shall show the name and address of
15 the licensee. A real estate salesperson's license shall show
16 the name of the broker by whom he is engaged. The license of
17 the real estate salesperson shall be delivered or mailed to
18 the broker by whom the real estate salesperson is engaged and
19 shall be kept in the custody and control of that broker.

20 C. Every license shall be renewed every three
21 years on or before the last day of the month following the
22 licensee's month of birth. Upon written request for renewal
23 by the licensee, the commission shall certify renewal of a
24 license if there is no reason or condition that might warrant
25 the refusal of the renewal of a license. The licensee shall

1 provide proof of compliance with continuing education
2 requirements and pay the renewal fee. If a licensee has not
3 made application for renewal of license, furnished proof of
4 compliance with continuing education requirements and paid
5 the renewal fee by the license renewal date, the license
6 shall expire. The commission may require a person whose
7 license has expired to apply for a license as if he had not
8 been previously licensed under Chapter 61, Article 29
9 NMSA 1978 and further require that he be reexamined. The
10 commission shall require a person whose license has expired
11 to pay when he applies for a license, in addition to any
12 other fee, a late fee. If during a period of one year from
13 the date the license expires the person or his spouse is
14 either absent from this state on active duty military service
15 or the person is suffering from an illness or injury of such
16 severity that the person is physically or mentally incapable
17 of making application for a license, payment of the late fee
18 and reexamination shall not be required by the commission if,
19 within three months of the person's permanent return to this
20 state or sufficient recovery from illness or injury to allow
21 the person to make an application, the person makes
22 application to the commission for a license. A copy of that
23 person's or his spouse's military orders or a certificate
24 from the applicant's physician shall accompany the
25 application. A person excused by reason of active duty

1 military service, illness or injury as provided for in this
2 subsection may make application for a license without
3 imposition of the late fee. All fees collected pursuant to
4 this subsection shall be disposed of in accordance with the
5 provisions of Section 61-29-8 NMSA 1978. The revocation of a
6 broker's license automatically suspends every real estate
7 salesperson's license granted to any person by virtue of
8 association with the broker whose license has been revoked,
9 pending a change of broker. Upon the naming of a new broker,
10 the suspended license shall be reactivated without charge if
11 granted during the three-year renewal cycle.

12 D. Each resident licensed broker shall maintain
13 within this state a fixed office that conforms with local
14 regulations. Every office operated by a licensed broker
15 shall have a licensed broker in charge who is a natural
16 person. The license of the broker and each real estate
17 salesperson associated with that broker shall be prominently
18 displayed in the office. The address of the office shall be
19 designated in the broker's license, and no license issued
20 shall authorize the licensee to transact real estate business
21 at any other address. In case of removal from the designated
22 address, the licensee shall make application to the
23 commission before the removal or within ten days thereafter,
24 designating the new location of his office and paying the
25 required fee, whereupon the commission shall issue a license

1 for the new location if the new location complies with the
2 terms of Chapter 61, Article 29 NMSA 1978. A licensed broker
3 shall maintain a sign on his office of such size and content
4 as the commission prescribes. In making application for a
5 license or for a change of address, the licensee shall verify
6 that his office conforms with local regulations.

7 E. When a real estate salesperson is discharged or
8 terminates his association or employment with the broker with
9 whom he is associated, it is the duty of that broker to
10 deliver or mail to the commission that real estate
11 salesperson's license within forty-eight hours. The
12 commission shall hold the license on inactive status. It is
13 unlawful for a real estate salesperson to perform any of the
14 acts authorized by Chapter 61, Article 29 NMSA 1978 either
15 directly or indirectly under authority of an inactive license
16 after his association has been terminated and his license as
17 salesperson has been returned to the commission as provided
18 in that article until the appropriate fee has been paid and
19 the license has been reissued by the commission. "

20 Section 6. Section 61-29-22 NMSA 1978 (being Laws 1980,
21 Chapter 82, Section 3, as amended) is amended to read:

22 "61-29-22. ADDITIONAL FEES. --

23 A. The commission shall collect an annual fee not
24 in excess of ten dollars (\$10.00) from each real estate
25 licensee prior to the issuance of the next license.

1 B. The commission shall collect from each
2 successful applicant for an original real estate license, in
3 addition to his original license fee, a fee not in excess of
4 ten dollars (\$10.00).

5 C. The additional fees provided by this section
6 shall be credited to the real estate recovery fund. The
7 amount of the real estate recovery fund shall be maintained
8 at two hundred fifty thousand dollars (\$250,000). If the
9 real estate recovery fund falls below this amount, the
10 commission shall have authority to adjust the annual amount
11 of additional fees to be charged licensees or to draw on the
12 real estate commission fund in order to maintain the fund
13 level as required in this section. If on July 1 of any year,
14 the balance in the fund exceeds four hundred thousand dollars
15 (\$400,000), the amount over four hundred thousand dollars
16 (\$400,000) shall be transferred to the real estate commission
17 fund to be used for the purposes of carrying out the
18 provisions of Chapter 61, Article 29 NMSA 1978. "

19 Section 7. REPEAL. -- Section 61-29-14 NMSA 1978 (being
20 Laws 1959, Chapter 226, Section 13, as amended) is repealed. ==